

NEW SpEd Law from the 2004 IDEA Reauthorization
Presented by the Council for Exceptional Children
11.6.06

Discipline

- If the action/behavior is found to be a manifestation of the child's disability, that child may not be expelled.
- May remove a student to an interim alternative educational setting for not more than 45 days, regardless of manifestation, if the student brings a weapon to school or a school function; brings, uses or sells drugs at school or a school function; or inflicts serious bodily injury as defined by U.S. code.

Least Restrictive Environment (LRE)

- Supplementary aids and services are now to be provided in extracurricular and nonacademic settings, in addition to in regular education classes and other education-related settings. Extracurricular and nonacademic settings: should be addressed on the IEP. The supports must be provided for the child if appropriate.
- Determined by what is appropriate for the student – NOT what the district can manage to provide.

Specific Learning Disabilities and Response to Intervention (RtI)

- Ensures that underachievement is not due to a lack of appropriate instruction in reading and math. Must consider evidence that the child received appropriate instruction, delivered by qualified personnel, and documentation of repeated assessments of achievement at reasonable intervals.
- Evaluation data must include observation in the child's learning environment prior to referral or in the process of referral. Applies to preschool as well.
- RtI is not the evaluation – it contributes to the full evaluation. It is not in and of itself the determinant of a SLD. RtI is the process that leads up to referral and identification. It helps inform the evaluation of the child. Depending on the rigor of the RtI model, it may provide all of the data necessary for the referral. Most models are not rigorous enough to replace the full evaluation.

Early Intervening Services

- New to IDEA 2004
- Defined as academic and behavioral supports to students in the general education environment.
- Activities include training for staff and supports and strategies for kids – all research based.
- Intended for grades K-12 with special emphasis on K-3.
- EI can't delay initial evaluation of a child suspected of having a disability.
- LEAs must report # of students receiving EI and the # who then went on to receive SpEd services.
- Must disaggregate ethnicity and race based on educational settings and discipline (suspended, expelled, etc.) If there is disproportionality, the LEA must then spend 15% of IDEA funds on EI.

- Distinct and different from RtI. It is a more a more broad, philosophical intervention. Ensures that you are meeting the needs of individual children in a large, programmatic ways. RtI applies to kids who are struggling and the interventions you'd provide for them. With EI, the funding apparatus kicks in to address disproportionality (the 15% rule).

Highly Qualified

- Brand new to IDEA 2004
- A SpEd teacher is HQ if he teacher has full state certification as a sped teacher, passed the PLACE for sped, and holds a sped teaching license.
- BUT, if SpEd teachers are teaching one or two core academic areas exclusively to disabled children, they must either be HQ according to NCLB or by the HOUSSE process. Talk to your HR director for more specifics.
- HQ applies to preschool teachers as well.

Children in Private Schools

- Child Find now the responsibility of the district where children attend the private school. Includes children who live in different states but who attend private school in your LEA. Service plan is still the responsibility of the LEA where the child resides.

Evaluations and Reevaluations

- A child may not be considered as having a disability due to a lack of appropriate instruction in reading, including the essential components of reading instruction as defined by NCLB, among other subjects and criteria.

IEPs

- Attendance at staffings – if a therapist's area is not an area of concern, they do not have to attend if agreed upon in writing. If unable to attend but are relevant, must get approval by LEA and parents in writing for not attending and must provide a written report.
- An IEP can occur without the parents if the LEA cannot convince the parents to attend and has documented attempt to communicate.
- Changes to the IEP can occur after the annual w/out convening a meeting if parents and LEA agree. Team members must be informed.
- Amendments to the IEP can also be made without a meeting if parents agree.

Due Process Procedures

- LEAs no longer have to provide interpreters to parents when needed, BUT will expose the district to due process proceedings!
- Procedural safeguards must be given only one time during the school year, except upon initial referral, parental request for reevaluation, the first occurrence of filing a complaint, and upon parental request.